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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,574	01/18/2001	Vincent P. Annunziata	03169- P0004B GSW/JBW	6862

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03/22/2007

EXAMINER

WEISBERGER, RICHARD C

ART UNIT

PAPER NUMBER

3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<p align="center"><b>Office Action Summary</b></p>	<p>Application No.</p> <p>09/764,574</p>	<p>Applicant(s)</p> <p>ANNUNZIATA, VINCENT P.</p>	
	<p>Examiner</p> <p>Richard C. Weisberger</p>	<p>Art Unit</p> <p>3693</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/18/2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 13-43 and 50-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 44-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| <p>1) <input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br/> Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)<br/> Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|--|---|

***Election/Restrictions***

Applicant's election of claims 1-12 in the reply has been acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

This application contains claims 13-43 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Newly submitted claims 50-55 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The system has different effects.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 50-55 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant is advised that should claims 1-12 be found allowable, claims 44-49 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Claim Rejections - 35 USC § 112***

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is directed to a system of components. The limitation at least one computerized exchange for transacting specified commodities executing on the computer accessible by selected users having proper exchange permissions for each exchange is vague and indefinite

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with respect to its structural components. Moreover the limitation “presentation of indications transmitted from the computer to a user of the system over the communications link, software executing on the computer for querying the user database to retrieve exchange permissions from a user file corresponding to the user, retrieving indications from the indication database corresponding to the predetermined commodities within the exchanges to which the user has been determined to have access, generating a presentation of the retrieved indications, and transmitting the presentation to the user over the communications link” lacks any structure. Also, in claim 44, the limitation “software executing on the computer for querying the user database to retrieve exchange permissions from a user file corresponding to the user; retrieving indications from the indication database corresponding to predetermined commodities within the exchanges to which the user has been determined to have access, generating a presentation of the retrieved indications, transmitting the presentation to the user over the communications link, and displaying the presentation of the retrieved indications corresponding to the commodities within the exchanges to which the user has been determined to have access” lacks any structure. Similarly, the limitations of claims 2-12.

The limitation “exchange permissions” is vague and indefinite. The scope of and nature of these permissions is unduly vague.

The limitation “indications” is vague and indefinite. The scope and content of these limitation is unduly vague. The algorithm determining access to the exchange is unclear.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-12 and 50-55 are rejected under 35 U.S.C. 102(b) as being by admissions of applicant.

The applicant is requested to state the system and submit any documentation of the system to which he is referring to as prior art.

The applicant states that prior art fails to include "the presently claimed invention enables a user to cross-trade among a plurality of exchanges"; This argument is not directed to a structural element in the claimed apparatus.

The applicant states that the prior art fails to teach a "a user file that includes exchange permissions corresponding to [multiple] exchanges to which a specified user may access"; This argument is not directed to a structural element in the claimed apparatus.

The applicant states that the prior art fails to teach "commodity-sharing privileges granted between at least two exchanges permitting at least one of the exchanges access to at least one commodity associated with the exchanges"; This argument is not directed to a structural element in the claimed apparatus.

The applicant states that the prior art fails to teach "commodities associated with an exchange are viewed exclusively by users having exchange permissions corresponding to the exchange"; this argument is not directed to a structural element in the claimed invention.

The applicant states that the prior art fails to teach "querying a user database to retrieve exchange permissions from a user file corresponding to a user"; "retrieving indications corresponding to predetermined commodities within the exchanges to which a user has been determined to have access"; this argument is not directed to a structural element in the claimed invention.

The applicant states that the prior art fails to teach "displaying the presentation of the retrieved indications corresponding to the commodities within the exchanges to which the user has been determined to have access"; and "a display for users of the system that permits member users to post and view bids and offers and negotiate and consummate transactions on commodities from one or more exchanges". These arguments are not directed to a structural element in the claimed invention.

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C. Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached on 6:30 AM to 10:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Kramer can be reached on 571 272 6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richard C Weisberger  
Primary Examiner  
Art Unit 3693



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